

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

JOSEPH RUPPERT, as Trustee of and on behalf of	)	
FAIRMOUNT PARK, INC. RETIREMENT	)	
SAVINGS PLAN, and on behalf of all others	)	
similarly situated,	)	
	)	
Plaintiff,	)	No.: 4:07-CV-344-JAJ-TJS
	)	
vs.	)	
	)	
PRINCIPAL LIFE INSURANCE CO.,	)	
	)	
Defendant.	)	

**PLAINTIFF’S MOTION FOR RECONSIDERATION OF  
NOVEMBER 5, 2009 ENTRY OF JUDGMENT ON THE PLEADINGS**

Comes now Plaintiff and for his Motion for Reconsideration of November 5, 2009 Entry of Judgment on the Pleadings, states as follows:

1. Twenty days after this Court granted Principal’s motion for judgment on the pleadings, the Eighth Circuit reversed one of the 401(k) revenue sharing district court cases this Court cited in support of parts of its ruling. *Braden v. Wal-Mart Stores, Inc.*, 2009 WL 4062105 (8th Cir. Nov. 25, 2009).

2. As more fully explained in the memorandum filed in support of this motion, the Court’s November 5 entry of judgment on the pleadings cannot stand in light of the Eighth Circuit’s decision in *Braden*.

WHEREFORE, in light of *Braden*, the Court should, vacate its entry of judgment on Ruppert’s claims of breach of fiduciary duty (Count I) and prohibited transactions (Count II) based on Principal’s revenue sharing in the Foundation Options funds.

Respectfully submitted,

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Fairmount Park, Inc. Retirement Savings Plan*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2009, I filed this instrument electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

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